

Natural Resources

Fish, Game, etc., Chs. NR 1—

Subject

Revises Chapter NR 29, relating to updating fee information for the Endangered Resources Review Program.

Objective of the Rule

The Department requests authorization to begin the process of amending Ch. NR 29, Wis. Adm. Code, to update fee information for services provided by the Endangered Resources Review Program and consider improved service alternatives requested by stakeholders. The Endangered Resources Review Program evaluates projects for potential impacts to rare species and habitats, shares Natural Heritage Inventory (NHI) data on rare species and high-quality natural communities, and provides training for DNR staff and external partners and customers. The program works with landowners, businesses, communities and DNR permit staff early in the planning phase of development and land management projects to identify measures that avoid and minimize negative impacts to rare species as required by endangered species laws while still allowing projects to be implemented. DNR is required by state statute to provide NHI information and data to customers for research, education, environmental, land management and similar authorized purposes (s. 23.27(3)(b), Wis. Stats.).

The fee structure for the Endangered Resources Review Program (contained in Ch. NR 29, Wis. Adm. Code: Endangered Resources Information Fees) was last updated 19 years ago. As a precursor to the process of updating the fee information, the Bureau has been gathering feedback from external customers and partners over the last year about how the Endangered Resources Review Program can better serve them, including identifying their priority needs and specific suggestions for improved services to better meet those needs.

The Bureau has also been gathering input from DNR staff in other divisions and bureaus about how to better coordinate with other programs to improve consistency and decrease workload and completion time for permits related to the endangered resources review which is required for all actions that the DNR conducts, funds, or approves. The objective of this action is an updated fee structure that incorporates the improved service alternatives requested by stakeholders (e.g., an expedited endangered resources review option and additional training alternatives), allowing the Endangered Resources Review Program to provide the high-quality services requested by external customers and partners in a self-supporting manner.

Policy Analysis

Staff salary and fringe costs have increased significantly since the last revision of Ch. NR 29, Wis. Adm. Code, in 1990 such that the fees currently in place no longer cover the cost of staff time required to provide NHI information, including endangered resources review and data sharing services, to our customers. The current fee for providing an endangered resources review is \$20/hour (\$60 minimum). Current staff costs for providing this service are \$44/hour. Thus for an average review (which takes 3 hours), the program loses \$72 in Review Program staff costs alone. Similarly, current fees for sharing NHI data are \$500–\$1000, but actual costs of 1) collection, mapping, quality control, management and packaging of these data for customers, 2) the processing time necessary to complete license agreements safeguarding the security of the data, and 3) providing the training and technical support necessary for external customers and partners to correctly use, understand and interpret the data often exceed this fee. This discrepancy between current fees and actual costs incurred along with cuts to funding for the Endangered Resources Bureau have led to funding and staff shortages in the Endangered Resources Review Program. The Endangered Resources Review Program is currently funded primarily by a multi-program chargeback. This chargeback was recently approved through FY10, contingent upon identifying alternate funds adequate to fund the program by FY11. Updating the fee structure in NR 29 is a necessary step in this process.

Statutory Authority

Section 23.27 (3), Wis. Stats.: Natural Heritage Inventory Program:

(a) Duties; and

(b) Access to information; fees.

Section 227.11, Wis. Stats.: Extent to which chapter confers rule-making authority.

Comparison with Federal Regulations

All projects that the DNR conducts, funds or approves must be in compliance with federal and state Endangered Species laws. Examples include land acquisition, land and water planning and development projects, sustainable

forestry certification, Managed Forest Law (MFL) plan development, NEPA compliance for receipt of federal aid, and DNR permit review. Because federal compliance is required for receipt of federal grants (federal Sport Fish Restoration and Pittman–Robertson funds granted to the Department totaled nearly \$23 million in fiscal year 2009), the Endangered Resources Review Program has worked with the U.S. Fish and Wildlife Service (USFWS) to develop joint screening procedures. These procedures have been approved by the Department as well as by the USFWS Federal Aid Office. The procedures require checking the NHI database for occurrences of listed species and provide an opportunity to screen for Special Concern species to ward off future listings.

Thus a myriad of DNR programs within Central Office and the regions depend on services that the Endangered Resources Review Program provides (including NHI data available through the online NHI Portal, species management guidelines, endangered resources review services, NHI data sharing services, training, and technical support) for conservation compliance. The provision of timely and accurate NHI data through the NHI Portal along with the technical support and services provided by the Endangered Resources Review Program are an insurance policy for the Department. They ensure that all Department programs meet state ESA requirements, that Department permits are issued in a timely manner, and that federal grants are not held up by the USFWS for noncompliance. The Endangered Resources Review Program strives to continue to develop and improve tools and provide services that facilitate and streamline compliance with state and federal endangered species laws for both internal staff and external customers and partners.

Entities Affected by the Rule

The Endangered Resources Review Program evaluates projects for potential impacts to rare resources and shares NHI data on rare species and high quality natural communities with external partners and customers for conservation purposes. As a result, there is a broad array of groups likely to be interested in and/or impacted by this proposed rule change including federal and state agencies, county and local units of government, private businesses (e.g., utilities, commercial and residential developers, environmental consultants, private foresters), non–profit organizations, university and college researchers, county forests and public and private landowners.

Estimate of Time Needed to Develop the Rule

The Department anticipates that approximately 268 hours of staff time will be needed.

Contact Information

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